

REMARKS:

Claims 1-32 are currently pending in the application.

Claims 1-10 and 21-32 stand rejected under 35 U.S.C. § 101.

Claims 11-20 stand rejected under 35 U.S.C. § 112.

Claim 21 stands objected to for a minor informality.

Claims 1-10 and 21-32 stand allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 101.

Claims 11-20 stand allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112.

Applicant notes the Examiner's response of 8 September 2008. Applicant further notes with thanks the Examiner's withdrawal of the previous rejections of Claims 1-5, 7, 9-15, 17, 19-25, 27, and 29-32 under 35 U.S.C. § 103(a) over U.S. Patent No. 7,058,602 to La Mura et al., in view of U.S. Patent No. 6,871,191 to Kinney Jr. et al., in view of U.S. Patent No. 6,952,682 to Wellman and in further view of Laurie Sullivan, "Evolving From Storefronts to High-Tech Trading. Applicant still further notes with thanks the Examiner's withdrawal of the previous rejection of Claims 6, 8, 16, 18, 26, and 28 under 35 U.S.C. § 103(a) over *La Mura* in view of *Kinney* in view of *Wellman* and *Sullivan* and in further view of U.S. Patent No. 7,039,603 to Walker et al. ("*Walker*") and the Examiner's withdrawal of the previous rejection of Claims 21-30 under U.S.C. § 101.

Applicant respectfully submits that all of Applicant's arguments and amendments are without *prejudice* or *disclaimer*. No new matter has been added.

CLAIM OBJECTION:

Claim 21 stands objected to for a minor informality. In particular, the Examiner states:

The claim language can be improved upon to better claim machine/apparatus subject matter (vs. software). A suggestion would be for the preamble of the claim to recite: "A computer-readable medium embodied with software enabling dynamic pricing in an unbalanced market, the software when executed using one or more computers is operable to:" This claims the computer-readable medium.

(8 September 2008 Office Action, Page 2). In response, Applicant has amended Claim 21 to expedite prosecution of the subject application. In addition, Applicant respectfully submits that the amendment to Claim 21 is not necessitated by any prior art and is unrelated to the patentability of the present invention. Thus, Applicant respectfully requests that the objection of Claim 21 be reconsidered and that Claim 21 be allowed.

REJECTION UNDER 35 U.S.C. § 101:

Claims 1-10 and 21-32 stand rejected under 35 U.S.C. § 101 as allegedly being directed towards non-statutory subject matter. Applicant respectfully disagrees. Specifically, the Examiner states:

Claims 1-10 and 21-32 were rejected under 35 U.S.C. § 101 in the Office Action filed February 26, 2008 because the claimed invention is directed to non-statutory subject matter. The rejections of claims 21-30 are withdrawn. However, the grounds for rejection of claims 1-10 and 31-32 still stands.

(8 September 2008 Office Action, Page 3). In response, Applicant has amended Claim 21 to expedite prosecution of the subject application and to more particularly point out and distinctly claim Applicant's invention. By making these amendments, Applicant does not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 101, as set forth in the Office Action. In addition, Applicant respectfully submits that the amendment to Applicant's claims are not necessitated by any prior art and are unrelated to the patentability of the present invention.

Applicant respectfully submits that independent Claims 1, 21, 31 and 32 are directed to statutory subject matter and are considered to be in full compliance with the requirements of 35 U.S.C. § 101. Applicant further respectfully submits that independent Claims 1, 21, 31 and 32 are in condition for allowance.

With respect to dependent Claims 2-10 and 22-30, these claims depend from independent Claims 1 and 21 respectfully. As mentioned above, independent Claims 1 and 21 are considered to be in full compliance with the requirements of 35 U.S.C. § 101. Thus, dependent Claims 2-10 and 22-30 are considered to be in condition for allowance for at least the reason of depending from an allowable claim. Thus, Applicant respectfully requests that the rejection of Claims 1-10 and 21-32 under 35 U.S.C. § 101 be reconsidered and that Claims 1-10 and 21-32 be allowed.

In addition, Applicant respectfully requests that the Examiner call the undersigned at (480) 830-2700, if the Examiner has additional comments or suggestions to the 35 U.S.C. § 101 rejection of the subject Application or if the Examiner believes it would be easier to discuss the 35 U.S.C. § 101 rejection over the telephone.

REJECTION UNDER 35 U.S.C. § 112:

Claims 11-20 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner states:

Claim 11 recites the phrase "the electronic marketplace" in lines 4 and 6. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claims 12-20 are rejected to because of their dependency on claim 11.

(8 September 2008 Office Action, Page 2). In response, Applicant has amended Claim 11 to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. By making these amendments, Applicant does not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 112, as set forth in the Office Action. In addition, Applicant respectfully submits that the amendment to Applicant's claims are not necessitated by any prior art and are unrelated to the patentability of the present invention.

Applicant respectfully submits that independent Claim 11 is considered to be in full compliance with the requirements of 35 U.S.C. § 112. Applicant further respectfully submits that independent Claim 11 is in condition for allowance.

With respect to dependent Claims 12-20, these claims depend from independent Claim 11. As mentioned above, independent Claims 11 is considered to be in full compliance with the requirements of 35 U.S.C. § 112. Thus, dependent Claims 12-20 are considered to be in condition for allowance for at least the reason of depending from an allowable claim. Thus, Applicant respectfully requests that the rejection of Claims 11-20 under 35 U.S.C. § 112 be reconsidered and that Claims 11-20 be allowed.

In addition, Applicant respectfully requests that the Examiner call the undersigned at (480) 830-2700, if the Examiner has additional comments or suggestions to the 35 U.S.C. § 112 rejection of the subject Application or if the Examiner believes it would be easier to discuss the 35 U.S.C. § 112 rejection over the telephone.

ALLOWABLE SUBJECT MATTER:

Claims 1-10 and 21-32 stand allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 101. Claims 11-20 stand allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112. Applicant greatly appreciates the Examiner acknowledging that Claims 1-32 contain allowable subject matter.

In response, Applicant has amended Applicant's claims to unambiguously place Applicant's claims within a statutory category and to overcome the rejection under 35 U.S.C. § 112. In addition, Applicant notes with thanks the Examiner's acknowledgement that Applicant's claims are patentable over U.S. Patent No. 7,058,602 to La Mura et al., in view of U.S. Patent No. 6,871,191 to Kinney Jr. et al., in view of U.S. Patent No. 6,952,682 to Wellman in view of Laurie Sullivan, "Evolving From Storefronts to High-Tech Trading, and in further view of U.S. Patent No. 7,039,603 to Walker et al. ("*Walker*").

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicant believes no additional fees are deemed to be necessary; the undersigned hereby authorizes the Director to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

19 September 2008
Date

/Steven J. Laureanti/signed
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